

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RACHEL M. BORDER,

Plaintiff,

v.

Case No. 2:12-cv-379
Judge Marbley
Magistrate Judge King

CAROLYN W. COLVIN, ACTING
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

REPORT AND RECOMMENDATION

Plaintiff filed a motion for an award of attorney fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, in the total amount of \$5,733.01 and asked that the amount be paid to her attorneys. Doc. No. 23. Thereafter, the parties filed a stipulation in which they agreed to a total award under the Equal Access to Justice Act in the amount of \$ 5,000.00. *Stipulation for Award of Attorney Fees under the Equal Access to Justice Act, 28 U.S.C. § 2412*, Doc. No. 24. The parties also agreed that, although the award belongs to plaintiff, the award would be directed to her counsel should the parties verify that plaintiff owes no pre-existing debt subject to offset. *Id.*

In light of the parties' stipulation, it is **RECOMMENDED** that plaintiff's motion for an award of attorney fees and costs, Doc. No. 23, be **GRANTED in part**. It is **SPECIFICALLY RECOMMENDED** that plaintiff be awarded an attorney fee, costs, and expenses under the Equal Access

to Justice Act, 28 U.S.C. §2412, in the total amount of \$5,000.00.

It is understood that, if plaintiff owes no pre-existing debt to the United States that is subject to offset, the Commissioner will direct that the award be made payable to plaintiff's attorneys.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

October 31, 2013

s/ Norah McCann King
Norah McCann King
United States Magistrate Judge